

105TH CONGRESS  
2D SESSION

# H. R. 4454

To amend the Internal Revenue Code of 1986 to simplify the individual capital gains tax for all individuals and to provide modest reductions in the capital gains tax for most individuals.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 1998

Mr. COYNE (for himself, Mr. RANGEL, Mr. STARK, Mr. MATSUI, Mrs. KENNELLY of Connecticut, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, and Mr. BECERRA) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to simplify the individual capital gains tax for all individuals and to provide modest reductions in the capital gains tax for most individuals.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Capital Gains Tax Simplification Act of 1998”.

6       (b) AMENDMENT OF 1986 CODE.—Except as other-  
7       wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment  
 2 to, or repeal of, a section or other provision, the reference  
 3 shall be considered to be made to a section or other provi-  
 4 sion of the Internal Revenue Code of 1986.

5 **SEC. 2. REDUCTION AND SIMPLIFICATION OF CAPITAL**  
 6 **GAINS TAX.**

7 (a) IN GENERAL.—Part I of subchapter P of chapter  
 8 1 (relating to treatment of capital gains) is amended by  
 9 adding at the end the following new section:

10 **“SEC. 1203. CAPITAL GAINS DEDUCTION.**

11 “If for any taxable year a taxpayer other than a cor-  
 12 poration has a net capital gain, 38 percent of such gain  
 13 shall be a deduction from gross income.”

14 (b) DEDUCTION ALLOWABLE WHETHER OR NOT  
 15 TAXPAYER ITEMIZES OTHER DEDUCTIONS.—

16 (1) Subsection (b) of section 63 is amended by  
 17 striking “and” at the end of paragraph (1), by strik-  
 18 ing the period at the end of paragraph (2) and in-  
 19 serting “, and”, and by adding at the end the follow-  
 20 ing new paragraph:

21 “(3) the deduction allowed by section 1203.”

22 (2) Subsection (d) of section 63 is amended by  
 23 striking “and” at the end of paragraph (1), by strik-  
 24 ing the period at the end of paragraph (2) and in-

1       serting “, and”, and by adding at the end the follow-  
2       ing new paragraph:

3               “(3) the deduction allowed by section 1203.”

4       (c) MINIMUM TAX TREATMENT.—

5               (1) Paragraph (1) of section 56(b) is amended  
6       by adding at the end the following new subpara-  
7       graph:

8               “(G) CAPITAL GAIN DEDUCTION NOT AP-  
9       PLICABLE.—Section 1203 shall not apply.”

10              (2) Subsection (b) of section 55 is amended by  
11       striking paragraph (3) and inserting the following  
12       new paragraphs:

13              “(3) MAXIMUM TAX ON NET CAPITAL GAIN.—  
14       The amount of tax determined under the first sen-  
15       tence of paragraph (1)(A)(i) shall not exceed the  
16       sum of—

17              “(A) the amount determined under such  
18       first sentence computed at the rates and in the  
19       same manner as if this paragraph had not been  
20       enacted on the taxable excess reduced by the  
21       net capital gain, plus

22              “(B) a tax on the net capital gain deter-  
23       mined by using the regular tax capital gains tax  
24       rates.

1 “(4) REGULAR TAX ON NET CAPITAL GAIN.—

2 For purposes of paragraph (3), the tax on the net  
3 capital gain determined by using the regular tax  
4 capital gains tax rates is the excess of—

5 “(A) the tax that would be computed  
6 under section 1 if net capital gain were deter-  
7 mined with the adjustments under this part,  
8 over

9 “(B) the tax that would be so computed  
10 under section 1 if the taxable income were re-  
11 duced by 62 percent of the net capital gain as  
12 so determined.”

13 (d) REPEAL OF TAX PREFERENCE FOR EXCLUSION  
14 ON SMALL BUSINESS STOCK.—

15 (1) Subsection (a) of section 57 is amended by  
16 striking paragraph (7).

17 (2) Subclause (II) of section 53(d)(1)(B)(ii) is  
18 amended by striking “, (5), and (7)” and inserting  
19 “and (5)”.

20 (e) TREATMENT OF COLLECTIBLES.—

21 (1) IN GENERAL.—Section 1222 is amended by  
22 inserting after paragraph (11) the following new  
23 paragraph:

24 “(12) SPECIAL RULE FOR COLLECTIBLES.—

1           “(A) IN GENERAL.—Any gain or loss from  
2           the sale or exchange of a collectible shall be  
3           treated as a short-term capital gain or loss (as  
4           the case may be), without regard to the period  
5           such asset was held. The preceding sentence  
6           shall apply only to the extent the gain or loss  
7           is taken into account in computing taxable in-  
8           come.

9           “(B) TREATMENT OF CERTAIN SALES OF  
10          INTERESTS IN PARTNERSHIPS, ETC.—For pur-  
11          poses of subparagraph (A), any gain from the  
12          sale or exchange of an interest in a partnership,  
13          S corporation, or trust which is attributable to  
14          unrealized appreciation in the value of collect-  
15          ibles held by such entity shall be treated as gain  
16          from the sale or exchange of a collectible. Rules  
17          similar to the rules of section 751(f) shall apply  
18          for purposes of the preceding sentence.

19          “(C) COLLECTIBLE.—For purposes of this  
20          paragraph, the term ‘collectible’ means any cap-  
21          ital asset which is a collectible (as defined in  
22          section 408(m) without regard to paragraph (3)  
23          thereof).”

24          (2) CHARITABLE DEDUCTION NOT AF-  
25          FECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: “For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).”

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: “and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)”.

(f) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 1 is amended by striking subsection (h).

(2) Subparagraph (E) of section 163(d)(4) is amended to read as follows:

“(E) COORDINATION WITH CAPITAL GAINS DEDUCTION.—The net capital gain taken into account under section 1203 for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under subparagraph (B)(iii) for such year.”

1           (3) Paragraph (1) of section 170(e) is amended  
2           by striking “the amount of gain” in the material fol-  
3           lowing subparagraph (B)(ii) and inserting “62 per-  
4           cent (100 percent in the case of a corporation) of  
5           the amount of gain”.

6           (4) Subparagraph (B) of section 172(d)(2) is  
7           amended to read as follows:

8                     “(B) the exclusion under section 1202 and  
9                     the deduction under section 1203 shall not be  
10                    allowed.”

11           (5) The last sentence of section 453A(c)(3) is  
12           amended by striking all that follows “long-term cap-  
13           ital gain,” and inserting “the maximum rate on net  
14           capital gain under section 1201 or the deduction  
15           under section 1203 (whichever is appropriate) shall  
16           be taken into account.”

17           (6)(A) Section 641(d)(2)(A) is amended by  
18           striking “Except as provided in section 1(h), the”  
19           and inserting “The”.

20           (B) Section 641(d)(2)(C) is amended by insert-  
21           ing after clause (iii) the following new clause:

22                     “(iv) The deduction under section  
23                    1203.”

24           (7) Paragraph (4) of section 642(c) is amended  
25           to read as follows:

1           “(4) ADJUSTMENTS.—To the extent that the  
2           amount otherwise allowable as a deduction under  
3           this subsection consists of gain from the sale or ex-  
4           change of capital assets held for more than 1 year,  
5           proper adjustment shall be made for any exclusion  
6           allowable under section 1202 and any deduction al-  
7           lowable under section 1203 to the estate or trust. In  
8           the case of a trust, the deduction allowed by this  
9           subsection shall be subject to section 681 (relating  
10          to unrelated business income).”

11           (8) Section 642 is amended by adding at the  
12          end the following new subsection:

13          “(j) CAPITAL GAINS DEDUCTION.—The deduction  
14          under section 1203 to an estate or trust shall be computed  
15          by excluding the portion (if any) of the gains for the tax-  
16          able year which is includible by the income beneficiaries  
17          under sections 652 and 662 (relating to inclusions of  
18          amounts in gross income of beneficiaries of trusts) as gain  
19          derived from the sale or exchange of capital assets.”

20           (9) The last sentence of section 643(a)(3) is  
21          amended to read as follows: “The exclusion under  
22          section 1202 and the deduction under section 1203  
23          shall not be taken into account.”

24           (10) Subparagraph (C) of section 643(a)(6) is  
25          amended by inserting “(i)” before “there shall” and



1 by inserting before the period “, and (ii) the deduc-  
2 tion under section 1203 (relating to capital gains de-  
3 duction) shall not be taken into account”.

4 (11) Paragraph (4) of section 691(c) is amend-  
5 ed by striking “1(h),” and by inserting “1203,”  
6 after “1202,”.

7 (12) The second sentence of paragraph (2) of  
8 section 871(a) is amended by striking “section  
9 1202” and inserting “sections 1202 and 1203”.

10 (13)(A) Paragraph (2) of section 904(b) is  
11 amended by striking subparagraphs (A) and (C), by  
12 redesignating subparagraph (B) as subparagraph  
13 (A), and by inserting after subparagraph (A) (as so  
14 redesignated) the following new subparagraph:

15 “(B) OTHER TAXPAYERS.—In the case of  
16 a taxpayer other than a corporation, taxable in-  
17 come from sources outside the United States  
18 shall include gain from the sale or exchange of  
19 capital assets only to the extent of foreign  
20 source capital gain net income.”

21 (B) Subparagraph (A) of section 904(b)(2), as  
22 so redesignated, is amended—

23 (i) by striking all that precedes clause (i)  
24 and inserting the following:

1           “(A) CORPORATIONS.—In the case of a  
2           corporation—”, and

3           (ii) by striking in clause (i) “in lieu of ap-  
4           plying subparagraph (A),”.

5           (C) Paragraph (3) of section 904(b) is amended  
6           by striking subparagraphs (D) and (E) and inserting  
7           the following new subparagraph:

8           “(D) RATE DIFFERENTIAL PORTION.—The  
9           rate differential portion of foreign source net  
10          capital gain, net capital gain, or the excess of  
11          net capital gain from sources within the United  
12          States over net capital gain, as the case may  
13          be, is the same proportion of such amount as  
14          the excess of the highest rate of tax specified in  
15          section 11(b) over the alternative rate of tax  
16          under section 1201(a) bears to the highest rate  
17          of tax specified in section 11(b).”

18          (14) Paragraph (1) of section 1402(i) is amend-  
19          ed by inserting “, and the deduction provided by sec-  
20          tion 1203 shall not apply” before the period at the  
21          end thereof.

22          (15) Paragraph (1) of section 1445(e) is  
23          amended by striking “20 percent” and inserting  
24          “24.5 percent”.

1           (16)(A) The second sentence of section  
2       7518(g)(6)(A) is amended—

3           (i) by striking “during a taxable year to  
4       which section 1(h) or 1201(a) applies”, and

5           (ii) by striking “20 percent” and inserting  
6       “24.5 percent”.

7           (B) The second sentence of section  
8       607(h)(6)(A) of the Merchant Marine Act, 1936, is  
9       amended—

10          (i) by striking “during a taxable year to  
11       which section 1(h) or 1201(a) of such Code ap-  
12       plies”, and

13          (ii) by striking “20 percent” and inserting  
14       “24.5 percent”.

15       (g) CLERICAL AMENDMENT.—The table of sections  
16 for part I of subchapter P of chapter 1 is amended by  
17 adding at the end the following new item:

          “Sec. 1203. Capital gains deduction.”

18       (h) EFFECTIVE DATES.—

19           (1) IN GENERAL.—Except as otherwise pro-  
20       vided in this subsection, the amendments made by  
21       this section shall apply to taxable years beginning  
22       after December 31, 1998.

23           (2) WITHHOLDING.—The amendments made by  
24       subsection (f)(15) shall apply only to amounts paid  
25       after December 31, 1998.

1           (3) REPEAL OF ELECTION.—Section 311 of the  
2       Taxpayer Relief Act of 1997 is amended by striking  
3       subsection (e).

4           (4) COORDINATION WITH PRIOR TRANSITION  
5       RULE.—Any amount treated as long-term capital  
6       gain by reason of paragraph (3) of section 1122(h)  
7       of the Tax Reform Act of 1986 shall not be taken  
8       into account for purposes of applying section 1203  
9       of the Internal Revenue Code of 1986 (as added by  
10      this section).

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